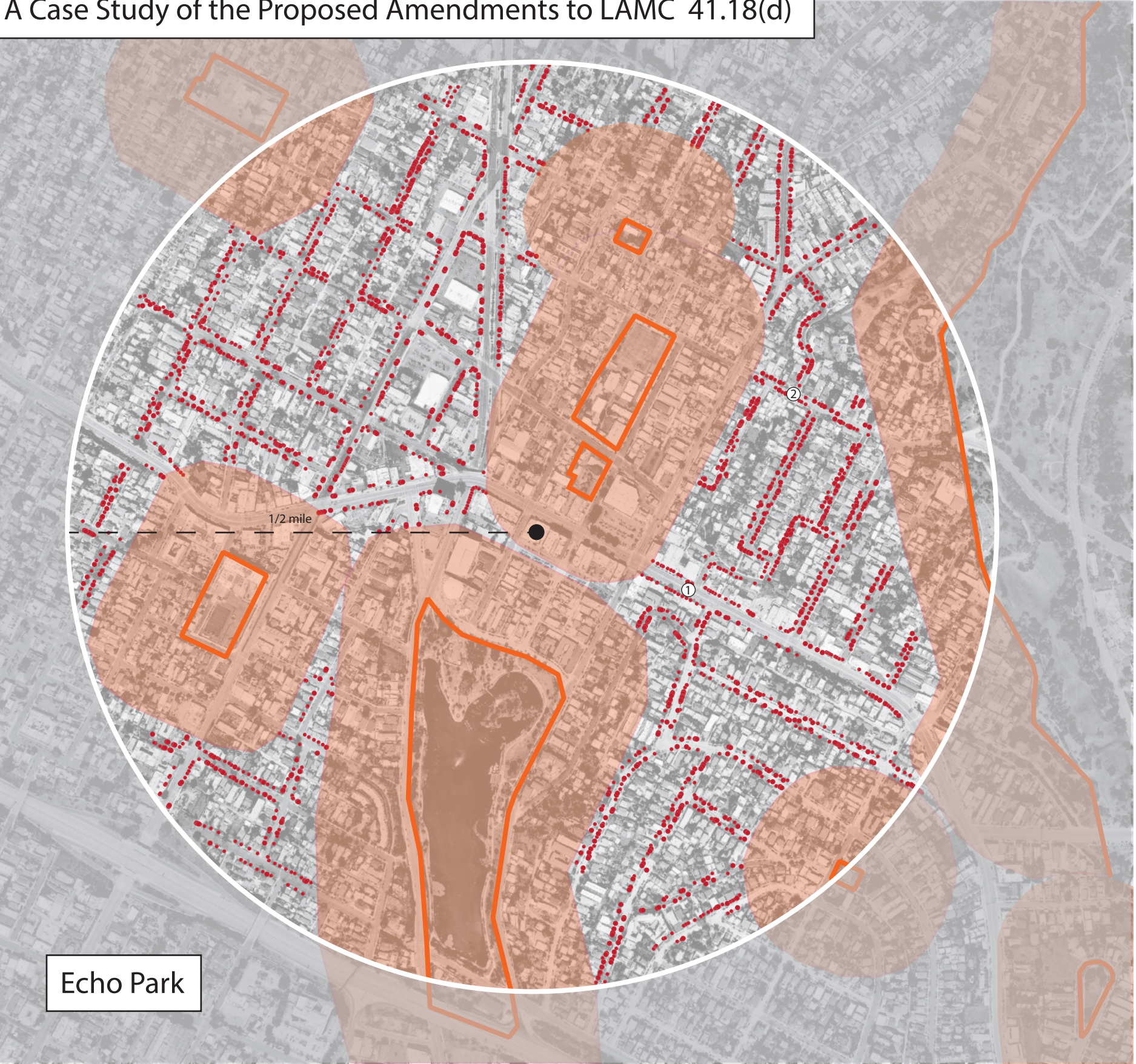


A False Premise:

A Case Study of the Proposed Amendments to LAMC 41.18(d)



Legend

- Office of Council Member Mitch O'Farrell (CD13)
- School/Park/Daycare
- 500 ft. buffer around school/park/daycare
- 10' around entryways
- 10' around driveways

*Spaces that are not excluded on this map could still be prohibited under the proposed ordinance because the sidewalk may provide no more than 36" of clearance, as required by the Americans with Disabilities Act and Section 41.18(d)(2) of the proposed amendment.

Overview

By even the most conservative estimates, there are more than 36,000 people who are homeless in Los Angeles, and more than 75% of them are unsheltered.¹ Many unsheltered residents have no other option but to sleep on sidewalks and in public spaces throughout the city.

A new proposal before the Los Angeles City Council would amend the City's municipal code to place categorical restrictions on where people can sit, sleep, and lie in public.² The proposed revision to Los Angeles Municipal Code Section 41.18(d) creates eleven separate city-wide restrictions on where people can be—ranging from 500 foot buffer zones around schools, parks, and daycares, to 10 foot restrictions around all driveways and doorways. Each of the eleven categories adds to the patchwork of laws that an unhoused person would have to navigate, just to find a place to sleep or even to simply rest their feet without breaking the law.

Council Member Mitch O'Farrell, who sponsored the proposal, says the approach is "balanced," and that the proposal leaves "a whole lot of real estate" where people who have no pother option can legally sleep.³ The City Attorney, Mike Feuer supports the proposal.⁴ His office has asserted that the proposed ordinance is consistent with a Ninth Circuit Court of Appeals ruling in *Martin v. City of Boise*, which held that "as long as there is no option of sleeping indoors, the government cannot criminalize indigent, homeless people for sleeping outdoors, on public property, on the false premise they had a choice in the matter."⁵ But the City has not provided any maps, surveys, or analysis to show how restrictive the new ordinance would be in practice or where unhoused people could legally sleep.

A Los Angeles Times review of the proposal found that just three of the eleven prohibitions would place more than 25% of the city off limits.⁶ Adding in the areas where there are posted closing times increases the area to more than 40%. But as restrictive as these regulations appear on the LA Times's map, **the actual ordinance would be far more restrictive.**

Since the sponsor of the motion has refused to provide any maps or analysis of the new proposal,⁷ we set out to map just a small corner of the city—a ½ mile radius around Council Member O'Farrell's district office—to show what the regulations would truly be like for a person who has no option but to sleep on the sidewalk.

The result shows that the new proposal would not only be completely unworkable for unhoused residents, it would all but banish unhoused people from the city.

Proposed Amendments to Los Angeles Municipal Code Section 41.18(d)

On August 21, 2019, the Homelessness and Poverty Committee of the Los Angeles City Council approved the following instructions related to amending Los Angeles Municipal Code 41.18(d):

REQUEST the City Attorney to draft an ordinance, repealing the current version of Los Angeles Municipal Code 41.18(d) and replacing it with the language below:

- (d) No person shall sit, lie or sleep in or upon any street, sidewalk, or other public right of way as follows:
- (1) At any time in a manner that restricts ten feet of clearance from any utilizable and operational entrance, exit, driveway or loading dock;
 - (2) At any time in a manner that restricts passage as required by the ADA;
 - (3) At any time:
 - (i) Within 500 feet of a park.
 - (ii) Within 500 feet of a school.
 - (iii) Within 500 feet of a daycare center.
 - (iv) In or upon any tunnel, bridge or pedestrian subway that is on a route designated by City Council resolution as a school route.
 - (v) Within 500 feet of a facility opened after January 1, 2018 to provide housing, shelter, supportive services, safe parking, or storage to homeless persons.
 - (vi) Bike and other recreational paths
 - (vii) Public areas (non-sidewalk) posted with No Trespass signs for safety purposes
 - (viii) Public areas posted with closing times for safety and maintenance purposes.
 - (ix) Crowded public sidewalk areas like those exempted in the Citywide vending ordinance and other large venue-adjacent areas.

1. Los Angeles Homeless Services Authority, 2019 Greater Los Angeles Homelessness Count, available at <https://www.lahsa.org/documents?id=3437-2019-greater-los-angeles-homeless-count-presentation.pdf>

2. Los Angeles City Council File 19-0602-S1

3. KPCC, Airtalk, August 23, 2019.

4. "Message from Mike," September 6, 2019, available at <https://www.youtube.com/watch?v=NFjEeTbj2HY&feature=youtu.be>

5. *Martin v. City of Boise*, 902 F.3d 1031 (9th Cir. 2018).

6. Los Angeles Times, "Many of L.A.'s sidewalks would be off-limits for homeless people to sleep if plan passes," September 9, 2019.

7. We submitted a California Public Records Act request to Council Member O'Farrell's office on August 30, 2019, requesting maps, reports or other analysis used by Council Member O'Farrell's office to support his contention that a significant amount of space would remain accessible. The Council office has not provided a substantive response or made any records available for inspection, although the time to do so under Ca. Gov't Code § 6253(c) has expired.

8. In verifying the locations, we discovered that one of the schools identified by the city, a charter school located at 2301 Bellevue Avenue, closed last year.

9. There were no locations identified within the mapping area that fell in this category.

10. See Los Angeles Department of Transportation Manual of Policies and Procedures, Section No. 321, Driveway Design; Ca. Department of Industrial Relations, Subchapter 7, General Industry Safety Orders, § 3235, Doors.

Mapping Methodology

- First, we mapped Council Member Mitch O'Farrell's Field Office, located at 1722 Sunset Blvd., and drew a ½ mile radius around his office.
- Then we identified all schools, parks, and daycares within the zone, using publicly available sources, and mapped a 500 foot buffer around these locations. We cross-checked these locations with the locations used by the City in creating a map of "safe zones" where individuals can live in their vehicles, pursuant to LAMC 85.02, which also includes references to 500 feet from schools, parks, and daycares. After we identified the schools, parks, and daycares used by the City for LAMC 85.02, we verified that locations were still in operation.⁸
- Then we physically walked the areas not covered by a buffer zone and visually plotted each doorway and driveway, and also looked for "No Trespassing" signs, areas that are closed (like libraries and other locations).⁹
- We did not identify bridges, tunnels, and pedestrian subways on school routes because City Council Resolution must designate those routes as "school routes".
- After we visually mapped the driveways and doorways, we plotted each point on a satellite map of the city, double-checking the location with Google Street View.
- Then, we expanded each of the points to include the requisite 10 feet as well as the width of the doorway or driveway, using the assumptions below.
- We did not map the additional restriction under Section (d)(2), which would require 36" of clearance on any public right of way. Doing so would reduce even further the available "real estate" where an unhoused person could legally sit, sleep, or lie on the sidewalk.

Assumptions:

We assumed 9 feet per single doorway/18 feet per double driveway, and 36" for a single doorway /72" for a double doorway.¹¹



Anti-Eviction Mapping Project